IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.9.2006

Coram:

The Hon'ble Mr.JUSTICE S.RAJESWARAN

C.R.P.(PD) No.1687 of 2004

M.Velu .. Petitioner

vs.

1.V.R.Rathinam
2.Dr.P.Krishnaraju
3.Sub-Registrar
Veerapandi Register Office
Veerapandi
Salem Taluk District

4.The Inspector of Police
Kondalampatty Police Station
Salem

5.The Sub-Inspector of Police
Kondalampatty
Salem.10

6.Thangamani
Sub-Inspector of Police
Kondalampatty
Salem.10.

7.Lakshmki

8.The Chief Secretary
Government of Tamilnadu
Chepauk, Chennai.

9.The District Collector
Salem.

10.The Commissioner of Police
Salem City Police
Salem.

.. Respondents

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Revision Petition filed against the order dated 9.12.2003, passed in I.A.No.971/2003 in O.S.No.30/2002 on the file of the I Additional District Munsif, Salem.

For Petitioner : Mr.C.Kanagaraj

For Respondents : Mr.P.Jagadeesan, for R1.

ORDER:

This Revision Petition has been filed against the order dated Revision Petition filed against the order dated 9.12.2003, passed in I.A.No.971/2003 in O.S.No.30/2002 on the file of the I Additional District Munsif, Salem.

2. The plaintiff in O.S.No.30/2002 is the revision petitioner.

3. The plaintiff filed the suit in O.S.No.30/2002 for a declaration that he is the absolute owner of the suit schedule property and also for consequential injunction not to disturb his peaceful possession and enjoyment. He filed an application in I.A.No.971/2003 under Order 1 Rule 10(2) C.P.C. to implead respondents 4 to 10 herein in the suit. The 4th respondent is the Inspector of Police, 5th and 6th respondents are the Sub-Inspectors of Police, 7th respondent is the subsequent purchaser, 8th respondent is the Chief Secretary, 9th respondent is the District Collector and 10th respondent is the Commissioner of Police.

4. It is stated by the revision petitioner that subsequent to the filing of the suit, 1st and 2nd respondents had fraudulently created a registered deed styled as sale deed pertaining to the suit property in favour of the 7th respondent with the actual support and connivance of respondents 4 to 6. Therefore the proposed parties are to be impleaded as necessary parties to enable him to have an exhaustive relief of damages. By order dated 9.12.2003 the trial court dismissed I.A.No.971/2003 by holding that the proposed parties are not necessary parties and aggrieved by the same, the above revision petition is filed under Article 227 of the Constitution of India.

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5. Heard both the learned counsel for the petitioner and the 1st respondent. I have also gone through the documents filed by them and the judgments referred to by them in support of their submissions.

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6. In 2003-2-L.W.547 (Kasthuri v. Iyyamperumal & 10 others) this court held that in order to avoid multiplicity of proceedings and for a complete and effective adjudication in respect of all the questions involved in the suit, Order 1 Rule 10 finds a place. As such liberal interpretation has got to be given to the rule and the narrow interpretation is not the intention of the framers of this Rule.

7. In AIR 2005 S.C. 2209 (Amit Kumar Shaw v. Farida Khatoon), the Hon'ble Supreme Court held that though the plaintiff is under no obligation to make a lis pendens transferee, a party under Order 22 Rule 10 C.P.C. an alienee pendente lite may be joined as party and the court has discretion which must be judicially exercised and an alienee would ordinarily be joined as a party to enable him to protect his interests.

8. Citing the above two decisions, the learned counsel for the petitioner strenuously contended that the 7th respondent, the subsequent purchaser and 4th to 6th respondents and 8th to 10th respondents must be impleaded in order to effectively adjudicate the matter.

9. I am unable to accept the submissions of the learned counsel for the petitioner. The suit itself is for a declaration and consequential injunction against 1st and 2nd respondents and also for an injunction restraining the defendants from registering any documents in respect of the suit schedule property. If that be so, the plaintiff has to prove his title and possession and 4th to 6th respondents and 10th respondent are police officials and respondents 8 and 9 are the Chief Secretary and District Collector respectively are neither necessary parties nor proper parties. Therefore the trial court was right in rejecting I.A.No.971/2003. Insofar as 7th respondent is concerned, she is only a subsequent purchaser and she is bound by the decree of the trial court. She did not come forward to implead herself to protect her interest in the suit. In such circumstances, the decision of the Hon'ble Supreme Court would not apply to the facts of the case. Moreover, the reasons adduced by the revision petitioner before the trial court for impleading the proposed parties is that they are the necessary parties to have an exhaustive relief of damages. But no amendment petition was filed to include the relief of damages in the plaint and the suit continues to be a suit for declaration of title and injunction.

10. Therefore the C.R.P. is unsustainable both in law and on facts and this court cannot interfere with the order of the trial court under Article 227 of the Constitution of India.

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11. In the result, the C.R.P. is dismissed. No costs. C.M.P.No.15769/2004 is also dismissed.

12. However since the suit is of the year 2002, the trial court is directed to dispose of the suit on merits as expeditiously as possible.

sks

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Sub-Registrar
Veerapandi Register Office
Veerapandi, Salem Taluk District

2.The Inspector of Police
Kondalampatty Police Station, Salem

3.The Sub-Inspector of Police, Kondalampatty
Salem.10

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5.The Chief Secretary
Government of Tamilnadu
Chepauk, Chennai.

6.The District Collector, Salem.

7.The Commissioner of Police, Salem City Police
Salem.

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VC(CO)
SR/16.10.2006

Pre-delivery order,
C.R.P.(PD)1687/04.

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